

Case No. F7340(V)

**REMARKS**

Reconsideration of the application, as amended, is respectfully requested.

The specification has been amended to include several section headings.

Moreau et al., U.S. Patent No. 5,843,499 discloses an oil extractable from corn fiber which contains ferulate esters, in particular sitostanyl ester. Moreau et al. indicate that corn fiber oil contains about 73% fat, 8% sterol (fatty acyl) esters, 4% free sterols, 6% diacylglycerols and 6% ferulate (sterol) esters. Objects of the Moreau et al. invention include providing a novel oil which contains ferulate esters, providing a novel method of producing corn fiber oil, and providing a composition containing corn fiber oil which is effective as a cholesterol lowering agent. It is said that extracted corn fiber oil may be added in effective amounts to margarine formulations, included in a "health" bar or encapsulated in an edible gel. The Office points to no teaching in Moreau et al. as to how the edible gel capsule would be created. Moreover, although the Office appears to rely on inherency, it does not indicate why an organogel is inherently formed in the corn fiber oil compositions of Moreau et al. Inherency is not established by mere possibilities. It is submitted that the Office has not met its burden of *prima facie* showing that Applicants' claimed organogel would be present in Moreau et al.

Jandacek, GB 1413102 discloses that an edible oil mixed with 2 to 6 wt. % plant sterol and 0.5 to 15% solubilizing agent would result in a clear refrigerated oil wherein the added sterol does not precipitate from the oil. The Office correctly notes that Jandacek does not state that plant sterol ester should be included. The Office takes a position that it would be obvious to one of ordinary skill to select the corn fiber oil of Moreau as

Case No. F7340(V)

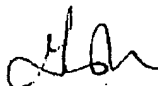
the edible oil product of Jandacek to prepare a food product having hypocholesterolemic properties. It is submitted that the Office has not established *prima facie* why one of ordinary skill seeking a clear oil would choose the Moreau et al. material having several different types of sterols or would ultimately produce the present invention, which is an organogel.

As to claim 5, it has been assumed that the cancellation of claim 5 in the parent case was entered since it is not listed among the rejected claims in the Advisory Action.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version With Markings To Show Changes Made."

In view of the foregoing, it is respectfully requested that the application, as amended, be allowed.

Respectfully submitted,



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Case No. F7340(V)

**VERSION WITH MARKINGS TO SHOW CHANGES MADE****In the specification:**

The Paragraph beginning at line 2 of page 1 has been amended as follows:

Liquid fatty component containing composition

**BACKGROUND AND SUMMARY OF THE INVENTION**

The present invention concerns an organogel containing composition, the organogel being largely composed of a liquid fatty component and a mixture of sterols.

The Paragraph beginning at line 8 of page 11 has been amended as follows:

**DETAILED DESCRIPTION OF THE INVENTION**

From a nutritional point of view, it is desired that in food products as little saturated fat (saturated fatty acid groups containing triglycerides) are present. Therefore, in these days, it is often desired to use untreated oils and fats having a high amount of unsaturated fatty acid groups. Such oils, however, are very often pourable at room temperature and therefore less suited for use in products that should have some firmness, such as spreads, dressings, mayonnaise and even squeezable margarines used as vegetable topping, creams, fillings and toppings. Up till now, these oils were treated by which treatment some firmness or hardness was obtained. However, such treatment has the serious disadvantage of saturating the unsaturated fatty acid groups. It is desired from a nutritional point of view, therefore, to use as much untreated oils and fat in a food product as the hardness allows to. With the present invention, now,

Case No. F7340(V)

firmness to a liquid oil or fat can be given by the addition of at least one sterol and at least one sterol ester in an amount of at least 1 wt% each, based on the liquid fat to which firmness is to be given.

In the claims:

On page 24, line 1 please amend the heading as follows:

What is claimed is:

CLAIMS

- 1 Composition containing an organogel, the organogel comprising a liquid fatty component, at least one sterol and at least one sterol ester.